

EXHIBIT B

KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

Alexia Renee Brancato
To Call Writer Directly:
+1 212 909 3344
alexia.brancato@kirkland.com

601 Lexington Avenue
New York, NY 10022
United States

+1 212 446 4800

www.kirkland.com

Facsimile:
+1 212 446 4900

November 5, 2019

Via E-mail

Daniel Nigh
LEVIN, PAPANTONIO, THOMAS,
MITCHELL
316 South Baylen Street
Pensacola, FL 32502
Phone: (850) 435-7013
dnigh@levinlaw.com

Ruben Honik
GOLOMB & HONIK, P.C.
1835 Market Street, Ste. 2900
Philadelphia, PA 19103
Phone (215) 985-9177
rhonik@golombhonik.com

Adam Slater
MAZIE SLATER KATZ & FREEMAN,
LLC
103 Eisenhower Pkwy, 2nd Flr.
Roseland, NJ 07068
Phone (973) 228-9898
aslater@mazieslater.com

Conlee Whiteley
KANNER & WHITELEY, LLC
701 Camp Street
New Orleans, LA 70130
Phone: (504)-524-5777
c.whiteley@kanner-law.com

Re: *In re Valsartan Products Liability Litigation*, MDL No. 2875 (RBK/JS)

Dear Counsel:

Manufacturing Defendants¹ write in response to your April 8, 2019 letter regarding Defendants' ESI.

¹ The positions expressed in this letter are those of the Manufacturing Defendants, to whom the Plaintiffs' discovery requests have been directed. The Retailer Defendants and the Wholesaler/Distributor/Repackager Defendants understand Plaintiffs' requests as relating to the discovery propounded by Plaintiffs on the Manufacturing Defendants. To the extent Plaintiffs intended to seek such information from the Retailer Defendants or the

KIRKLAND & ELLIS LLP

Daniel Nigh
Ruben Honik
Adam Slater
Conlee Whiteley
November 5, 2019
Page 2

Plaintiffs' letter raises *eight* pages of more than *80* hyper-technical questions regarding Defendants' ESI, including network servers, email and messaging servers and systems, hard drives, and non-company computers and devices. Defendants object to the vast majority of Plaintiffs' requests as overbroad, unduly burdensome, and not relevant to any party's claim or defense. Fed. R. Civ. P. 26(b)(1).

First, the majority of Plaintiffs' 80 requests are extremely overbroad and unduly burdensome. As just a few examples, Plaintiffs request:

- A list of all file types and extensions that actually appear and/or exist in the names of or within files that contain relevant documents, including but not limited to relevant emails or other communications, and identify the software used to create and/or access such files.
- A description of any network based system and topology utilized by defendants and documentation describing the number and types of computers/servers utilized and their locations, all operating systems installed on any computers/servers, and All software applications used at any time during the relevant time frame.
- A list of the systems used for any exchange of communications by your employees, including but not limited to email, instant messaging, text messaging, imessaging, SMS, MMS, chat rooms, list-servers, discussion forums, voicemail, voice-chat, video-chat, video-conferencing, and shared data stores, and the time period for the use of each system, including any systems used at any overseas facilities; and provide documentation describing the following: server, workstation, and device software and version, list of users utilizing the systems, location of communication files, all software

Wholesaler/Distributor/Repackager Defendants, these defendants object to providing any of the aforementioned information to Plaintiffs at this time, and submit that any such requests are overly broad and unduly burdensome given the phased discovery approach endorsed by the Court, the status of discovery in these proceedings, and the nature and extent of information sought by the draft Defendant Fact Sheet, which is still being negotiated between the parties. Retailer Defendants and Wholesaler/Distributor/Repackager Defendants reserve all of their rights regarding the issues discussed in this letter.

KIRKLAND & ELLIS LLP

Daniel Nigh
Ruben Honik
Adam Slater
Conlee Whiteley
November 5, 2019
Page 3

and/or applications used on such systems, names and locations of servers, workstations, and devices.

Second, Plaintiffs have made no showing as to why any of the requested information is relevant to any party's claim or defense.

Third, certain of Plaintiffs' requests are now moot in light of the discovery negotiations between Plaintiffs and the Manufacturing Defendants. For example, Plaintiffs request information regarding "whether defendants have used or are intend to use search terms for searching, locating, determining the relevancy of, or review of documents." As another example, Plaintiffs request that the Defendants "identify the key custodians of potentially relevant information" and provide a myriad of information about each potential custodian. Plaintiffs and the Manufacturing Defendants are currently negotiating search terms and custodians, and the Manufacturing Defendants have already provided the information Plaintiffs request as part of those negotiations.

However, in the interest of compromise, the Manufacturing Defendants are willing to engage in individual meet and confers regarding the requested information and will provide certain relevant information. For example, the Manufacturing Defendants are willing to provide information regarding:

- Whether any Manufacturing Defendant has used or intends to use TAR (including predictive coding) for searching, locating, determining the relevancy of, or review of documents;
- The ability of the Manufacturing Defendants' vendors to run search terms and apply modifiers;
- Non-company computers or devices;
- Backup, storage, and archiving utilized by the Manufacturing Defendants;
- Network servers; and
- Email, messaging, and communication servers and systems.

In agreeing to provide this information, the Manufacturing Defendants expressly reserve all objections to discoverability and admissibility, as well as all defenses.

KIRKLAND & ELLIS LLP

Daniel Nigh
Ruben Honik
Adam Slater
Conlee Whiteley
November 5, 2019
Page 4

Sincerely,

/s/ Alexia R. Brancato

Alexia R. Brancato